

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2017-305-E**

IN RE: Request of South Carolina Office of Regulatory Staff for Rate Relief to SCE&G Rates Pursuant to S.C. Code Ann. §58-27-920 _____	) ) ) ) ) )	<b>ORS RESPONSE IN OPPOSITION          TO SCE&amp;G'S MOTION TO DISMISS</b>
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Pursuant to S.C Code Ann. Regs. 103-829, the South Carolina Office of Regulatory Staff ("ORS") respectfully submits this Response in Opposition ("Response") to South Carolina Electric and Gas's ("SCE&G") September 28, 2017 Motion to Dismiss ("Motion to Dismiss"). ORS does not oppose SCE&G's request for a briefing schedule.

In its Motion to Dismiss, SCE&G asserts the relief sought in ORS's Request for Rate Relief ("Request") is "illegal and unconstitutional and outside the statutory powers of the Public Service Commission of South Carolina ("the Commission")." ORS disagrees and will further address the legal and factual issues in its brief to be provided in this docket as ordered by Commission Order No. 2017-609.

ORS's Request was precipitated when the South Carolina Office of the Attorney General issued an opinion ("Opinion") on September 26, 2017 stating that portions of the Base Load Review Act ("BLRA") are "constitutionally suspect." The 57-page Opinion details the various constitutional issues identified with the BLRA. The Attorney General is charged to "when required by the Secretary of State, State Treasurer, Adjutant General, Comptroller General, or any

other State officer or the Public Service Commission, consult and advise with them, respectively, on questions of law relating to their official business.” S.C. Code Ann. §1-7-110 (Rev. 2005). After reviewing the Opinion, ORS filed a Request with the Commission asking, in part, that further collections of revised rates issued under the BLRA be immediately suspended.

The Commission is vested with the power and jurisdiction to supervise and regulate the rates of every public utility in South Carolina. S.C. Code Ann. § 58-3-140(A). SCE&G is a public utility regulated by the Commission. The statute ORS applied in its Request, S.C. Code Ann. § 58-27-920, is a valid statute within chapter 27 “Electric Utilities and Electric Cooperatives.” It states:

**SECTION 58-27-920.** Schedule of rates put into effect after preliminary investigation.

The commission may, after a preliminary investigation by the Office of Regulatory Staff and upon such evidence as to the commission seems sufficient, order any electrical utility to put into effect a schedule of rates as shall be deemed fair and reasonable, within such time as may be prescribed by order of the commission, which shall be not less than fifteen days, and an attested copy of the order must be served upon the utility and the Office of Regulatory Staff by registered mail or otherwise as provided by law.

The statute was enacted in 1934, and ORS was added to its language in the most recent amendment in 2006. 1934 (38) 1549 and 2006 Act No. 318, Section 177, effective May 24, 2006.

Should the Commission issue an order pursuant to S.C. Code Ann. § 58-27-920, SCE&G is not without recourse. S.C. Code Ann. § 58-27-930 allows SCE&G to object to the Commission order by filing a petition with the Commission within 10 days after service of the Commission’s order. The petition may demand a hearing and require that the schedule of rates be suspended pending the hearing. S.C. Code Ann. § 58-27-930. The relief sought by ORS’s Request allows the Commission to lawfully take action within its powers.

### CONCLUSION

ORS's Request puts forth legitimate and meritorious grounds to contest SCE&G's revised rates. On September 28, 2017, two days after ORS's Request was filed, the Commission appointed a Hearing Officer to issue a schedule for briefing and oral argument as soon as possible in Order No. 2017-609. ORS will address the legal and factual issues in detail in briefs or arguments to be presented before the Commission as provided in the forthcoming procedural schedule.

Respectfully submitted,

SOUTH CAROLINA OFFICE  
OF REGULATORY STAFF

By: Shannon B. Hudson  
Jeffrey M. Nelson, Esquire  
Shannon B. Hudson, Esquire  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, South Carolina 29201  
Telephone: (803) 737-0823  
(803) 737-0889  
Fax: (803) 737-0801  
Email: [jnelson@regstaff.sc.gov](mailto:jnelson@regstaff.sc.gov)  
[shudson@regstaff.sc.gov](mailto:shudson@regstaff.sc.gov)

October 6, 2017  
Columbia, South Carolina